

SMILEY WANG-EKVALL, LLP

3200 Park Center Drive, Suite 250

Costa Mesa, California 92626

Tel 714 445-1000 • Fax 714 445-1002

**SMILEY WANG-EKVALL, LLP**

Robert S. Marticello, State Bar No. 244256

*rmarticello@swelawfirm.com*

Timothy W. Evanston, State Bar No. 319342

*tevanston@swelawfirm.com*

3200 Park Center Drive, Suite 250

Costa Mesa, California 92626

Telephone: 714 445-1000

Facsimile: 714 445-1002

Proposed Attorneys for Donald Chae,  
Debtor-in-Possession

**UNITED STATES BANKRUPTCY COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

**SANTA ANA DIVISION**

In re

DONALD CHAE,

Debtor and  
Debtor-in-Possession.

Case No. 8:21-bk-12493-ES

Chapter 11

**NOTICE OF APPLICATION OF DEBTOR  
AND DEBTOR-IN-POSSESSION FOR  
APPROVAL OF EMPLOYMENT OF  
SMILEY WANG-EKVALL, LLP, AS  
GENERAL BANKRUPTCY COUNSEL**

**[No Hearing Required Pursuant to Local  
Bankruptcy Rule 2014-1(b)(1) and  
9013-1(o)]**

**TO ALL PARTIES IN INTEREST:**

**PLEASE TAKE NOTICE** that Donald Chae, the debtor and debtor-in-possession (the "Debtor"), has filed an application for an order authorizing the employment of Smiley Wang-Ekvall, LLP (the "Firm"), as his counsel pursuant to 11 U.S.C. § 330 (the "Application"). The Debtor is requesting that the Court grant the Application without a hearing as provided for in LBR 9013-1(o), unless a party in interest files and serves a written opposition to the Application and requests a hearing. The Application is summarized as follows:

1. The Debtor filed a petition for relief under chapter 11 of the Bankruptcy Code on October 3, 2021. The Debtor's assets include real property and ownership interests in subsidiaries, which, in turn, own other entities or assets, including real estate. The Debtor's debts are largely comprised of guaranties of loans or investments made to subsidiaries. Many of the guaranteed loans, while unsecured in this case, are secured by the real estate or other property of the subsidiaries and, at this stage, remain contingent and unliquidated.

2. The Debtor requires the services of the Firm to (a) advise the Debtor with respect to the requirements and provisions of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Local Bankruptcy Rules, U.S. Trustee Guidelines and other applicable requirements which may

1 affect the Debtor; (b) assist the Debtor in preparing and filing his schedules and statement of  
2 financial affairs, complying with and fulfilling U.S. Trustee requirements, and preparing other  
3 documents as may be required after the initial filing of a chapter 11 case; (c) assist the Debtor in  
4 the preparation of a disclosure statement and formulation of a chapter 11 plan of reorganization;  
5 (d) advise the Debtor concerning the rights and remedies of the estate and of the Debtor regarding  
6 adversary proceedings which may be removed to, or initiated in, the Bankruptcy Court;  
7 and (e) represent the Debtor in any proceeding or hearing in the Bankruptcy Court in any action  
8 where the rights of the estate or the Debtor may be litigated or affected.

9  
10 3. The Firm's attorneys specialize in insolvency, reorganization, bankruptcy law, real  
11 estate law, and are well qualified to represent the Debtor. All attorneys comprising or associated  
12 with the Firm who will render services for the Debtor are duly admitted to practice in the courts of  
13 the State of California and in the United States District Court for the Central District of California.

14 4. The terms of employment of the Firm agreed to by the Debtor, subject to approval  
15 of the Court, are as follows:

16 (a) Hourly Fees. The Firm will undertake representation of the Debtor at a rate  
17 of between \$265.00 and \$650.00, depending on the experience and expertise of the  
18 attorney or paralegal performing the work. The majority of the work will be performed by  
19 Robert S. Marticello and Timothy W. Evanston, whose rates are \$610.00 and \$340.00,  
20 respectively, and by Janet Hogan, a paralegal whose hourly rate is \$265.00. However, the  
21 Firm reserves the right to have other attorneys of the Firm perform work in this case, as the  
22 Firm deems appropriate. The Firm's hourly rates are subject to periodic adjustment.

23 (b) Retainer. At the outset of its engagement, the Firm received a retainer of  
24 \$180,000 for both the Debtor and his brother, \$90,000 each (collectively, the "Retainer").  
25 The Retainer was funded by a non-debtor party, Comex Food Services, Inc. ("Comex").  
26 In order to replenish the Retainer and in anticipation of the Debtor's bankruptcy filing, the  
27 Firm received the amount of \$85,000, inclusive of the filing fee, from non-debtor Comex.  
28 The Debtor is a director and owner of Comex. The Retainer was applied to pre-petition  
services and the filing fee, leaving a balance of \$142,073.51 as of the Petition Date. The  
balance of the Retainer is maintained in the Firm's retainer account. Of the \$142,073.51  
balance of the Retainer on the Petition Date, the sum of \$41,020.96 is the remaining  
portion of the \$90,000 allocated to the Debtor's brother. The Debtor shall be authorized to  
replenish the Retainer from a non-Debtor source as permitted by the terms of the Firm's  
engagement.

(c) Modified Fee Application Procedures. Using the modified fee application  
procedures described below, the Firm will draw down its fees and expenses on a monthly  
basis from the Retainer. Once the Retainer is exhausted, the Firm will seek approval of its  
fees and expenses on an interim basis pursuant to Local Bankruptcy Rule 2016-1:

(i) The Firm will submit to the Office of the United States Trustee a  
monthly Professional Fee Statement ("Fee Statement") by the 20th day after the end  
of the month during which professional services were rendered. The Firm will  
attach its invoices as an exhibit to the Fee Statement. In addition, the Firm will  
serve a copy of the Fee Statement (with exhibit) on the Debtor, and will serve a  
copy of the Fee Statement (without exhibit) on the creditors' committee and  
committee counsel (if any), all parties on the ECF NEF list, and parties who have  
filed a request for special notice with the Court.

(ii) If no written objection and request for hearing is filed and served on  
the Firm within ten (10) days after service of the Fee Statement, the Firm may draw  
down its fees and expenses for which notice was given, without further notice,

1 hearing or order thereon. Any failure by any party to object to any Fee Statement  
2 shall not be deemed to be or construed in any manner to constitute a waiver of any  
3 objections such party may have to the request for payment at a later time. Any  
4 party that does not object to a Fee Statement shall be entitled to raise all of its  
5 objections at the next hearing on the interim and/or final fee application, as the case  
6 may be.

(iii) If timely opposition is received, the Firm will schedule the matter  
for hearing in accordance with the procedure established by Local Bankruptcy  
Rule 9013-1(o)(4). Pursuant to 11 U.S.C. §§ 330 and 331, the Firm shall file and  
serve, approximately every 120 days, an interim fee application or a final fee  
application, on noticed hearing. The Federal Rules of Bankruptcy Procedure and  
Local Bankruptcy Rules regarding compensation requests shall apply to all interim  
and final fee applications filed by the Firm.

(d) Legal Services Agreement and Letter of Engagement. The terms of the  
Firm's employment are set forth in the Legal Services Agreement and Letter of  
Engagement dated June 3, 2021 (the "Engagement Agreement") and the supplement  
thereto attached to the Application.

5. The Firm is disinterested and does not hold or represent any interest adverse to the  
Estate.

6. Certain disclosures are contained in the Application and Statement of  
Disinterestedness accompanying the Application.

**PLEASE TAKE FURTHER NOTICE** that if you do not oppose the proposed  
employment of the Firm you need to take no further action. In accordance with Local Bankruptcy  
Rule 2014-1(b)(3)(E), "any response and request for hearing, in the form required by LBR  
9013-1(f)(1), must be filed and served on the applicant (and counsel, if any), and the United States  
trustee not later than 14 days from the date of service of the notice" plus 3 additional days if you  
were served by mail or pursuant to F.R.Civ.P. 5(b)(2)(D), (E), or (F). Any objections not timely  
made may be deemed waived.

**PLEASE TAKE FURTHER NOTICE** that a complete copy of the Application may be  
obtained from the Firm upon request at (714) 445-1000 or from the Clerk of the Bankruptcy  
Court.

DATED: October 15, 2021

SMILEY WANG-EKVALL, LLP

By: /s/ Robert S. Marticello

ROBERT S. MARTICELLO

Attorneys for Donald Chae, Debtor-in-Possession

SMILEY WANG-EKVALL, LLP

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Costa Mesa, California 92626

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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
**3200 Park Center Drive, Suite 250, Costa Mesa, CA 92626**

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF APPLICATION OF DEBTOR AND DEBTOR-IN-POSSESSION FOR APPROVAL OF EMPLOYMENT OF SMILEY WANG-EKVALL, LLP, AS GENERAL BANKRUPTCY COUNSEL** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **October 15, 2021**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) **October 15, 2021**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

The Hon. Erithe Smith  
United States Bankruptcy Court  
Central District of California  
Ronald Reagan Federal Building and Courthouse  
411 West Fourth Street, Suite 5040 / Courtroom 5A  
Santa Ana, CA 92701-4593

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

**October 15, 2021** Gabriela Gomez-Cruz  
*Date Printed Name*

*/s/ Gabriela Gomez-Cruz*  
*Signature*

**TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

- Timothy W Evanston tevanston@swelawfirm.com,  
gcruz@swelawfirm.com;lgarrett@swelawfirm.com;jchung@swelawfirm.com
- Amir Gamliel amir-gamliel-9554@ecf.pacerpro.com, cmallahi@perkinscoie.com;DocketLA@perkinscoie.com
- Nancy S Goldenberg nancy.goldenberg@usdoj.gov
- Daniel A Lev dlev@sulmeyerlaw.com, ccaldwell@sulmeyerlaw.com;dlev@ecf.inforuptcy.com
- Patricia H Lyon phlyon@frenchlyontang.com, mwoodward@frenchlyontang.com
- Robert S Marticello Rmarticello@swelawfirm.com,  
gcruz@swelawfirm.com;lgarrett@swelawfirm.com;jchung@swelawfirm.com
- Ronald N Richards ron@ronaldrichards.com, morani@ronaldrichards.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

**SERVED BY UNITED STATES MAIL:**

**Top 20 Creditor's List:**

ABRA LENDING INC. 10100 CULVER CITY BLVD SUITE D CULVER CITY, CA 90232	BEACH ORANGETHORPE II, LLC C/O CT CORPORATION SYSTEM 3705 W. PICO BLVD. PMB 22555 LOS ANGELES, CA 90019-3451	BEACH ORANGETHORPE SOURCE, LLC C/O CT CORPORATION SYSTEM 3705 W. PICO BLVD PMB 22555 LOS ANGELES, CA 90019-3451
BOCH MANAGEMENT, INC. 3225 E. ABBEY LANE ORANGE, CA 92867-2009	BEACH ORANGETHORPE VENTURES, LLC C/O CT CORPORATION SYSTEMS 3705 W PICO BLVD. PMB 22555 LOS ANGELES, CA 90019-3451	BEACH ORANGETHORPE, LLC C/O CT CORPORATION SYSTEMS 3705 W PICO BLVD PMB 22555 LOS ANGELES, CA 90019-3451
GREENBERG TRAURIG, P.A. ATTENTION: LAURA GANGEMI VIGNOLA 333 SE 2 <sup>ND</sup> AVENUE MIAMI, FL 33131	LAW OFFICE OF YOHAN LEE 5681 BEACH BLVD., 7 <sup>TH</sup> FLOOR BUENA PARK, CA 90621	NATIXIS, NEW YORK BRANCH 1251 AVENUE OF THE AMERICAS NEW YORK, NY 10020
DAVID S KIM 500 S VIRGIL AVENUE SUITE 201 LOS ANGELES, CA 90020-1449	HO BIN NHIN 5230 SEREND DRIVE TEMPLE CITY, CA 91780-3061	PACIFIC CITY BANK WESTERN BRANCH 450 S WESTERN AVE, SUITE 213 LOS ANGELES, CA 90020-4239
PERKINS COLE LLP ATTN: LIANA W. SPENDLOVE 2901 N. CENTRAL AVE., SUITE 2000 PHOENIX, AZ 85012	PERKINS COLE LLP ATTN: MARK BIRNBAUM 1888 CENTURY PARK EAST, SUITE 1700 LOS ANGELES, CA 90067	QUINTUS INVESTMENT MANAGEMENT (HONG KONG) LIMITED ROOM 1704A, TWR 2, ADMIRALTY CENTRE ADMIRALTY, HONG KONG
PREFERRED BANK 17515 COLIMA ROAD CITY OF INDUSTRY, CA 91748-1859	QUANG CUONG NGUYEN 8200 BOLSA AVE SPC 58 MIDWAY CITY, CA 92655-1231	QUANG D TRAN 8200 BOLSA AVE SPC 58 MIDWAY CITY, CA 92655-1231
QUARRY HEAD 2017-1 GRANTOR TRUST C/O WATERFALL ASSET MANAGEMENT LLC 1140 AVENUE OF THE AMERICAS 7TH FL NEW YORK, NY 10036-5803	RHRG INVESTMENTS INC. 119 CRUISER IRVINE, CA 92618-0832	SHADY BIRD LENDING LLC C/O LAW OFFICES OF RONALD RICHARDS P.O. BOX 11480 BEVERLY HILLS, CA 90213-4480
SHADY BIRD LENDING LLC C/O LAW OFFICES OF GEOFFREY LONG 1601 N. SEPULVEDA BLVD, NO. 729 MANHATTAN BEACH, CA 90266-5111	THI HOA NGUYEN 5391 LAVERNE CIR WESTMINSTER, CA 92683-1702	WF 1105, LLC C/O WATERFALL ASSET MANAGEMENT, LLC ATTN: GENERAL COUNSEL 1140 AVENUE OF THE AMERICAS, 7TH FL NEW YORK, NY 10036-5803
WF 1105, LLC C/O WATERFALL ASSET MANAGEMENT, LLC ATTN: GENERAL COUNSEL 1140 AVENUE OF THE AMERICAS, 7TH FL NEW YORK, NY 10036-5803	WELLS FARGO BANK, N.A., AS TRUSTEE MORGAN STANLEY CAP I TRUST 2016-UBS 9062 OLD ANNAPOLIS ROAD COLUMBIA, MD 21045-2479	YG ENTERTAINMENT 17, SEOLLEUNG-RO 152-GIL GANGNAM-GU, SEOUL REPUBLIC OF KOREA 06014
WOORI AMERICA BANK 330 FIFTH AVENUE, 3RD FLOOR NEW YORK, NY 10001	WINSTON & STRAWN, LLP ATTN: COREY A. TESSLER 200 PARK AVE. NEW YORK, NY 10166	